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TRANSCRIPT OF STATUS CONFERENCE VIA VIDEOCONFERENCE  
BEFORE THE HONORABLE ALAN D. ALBRIGHT

APPEARANCES :

Court Reporter: Ms. Lily Iva Reznik, CRR, RMR  
501 West 5th Street, Suite 4153  
Austin, Texas 78701  
(512) 391-8792

Proceedings reported by computerized stenography,  
transcript produced by computer-aided transcription.

11:31:59 1 THE COURT: Good afternoon -- good morning,  
11:32:00 2 everyone.

11:32:01 3 Jen, would you call the case, please.

11:32:03 4 THE CLERK: Civil action in Case AU-23-CV-858,  
11:32:07 5 BookPeople, Incorporated, Et Al vs. Martha Wong, Et Al.  
11:32:10 6 Case called for a status conference.

11:32:12 7 THE COURT: Could I have announcements from  
11:32:13 8 counsel, please.

11:32:18 9 MS. PRATHER: Your Honor, Laura Prather, Reid  
11:32:21 10 Pillifant and Michael Lambert here on behalf of the  
11:32:23 11 plaintiffs.

11:32:23 12 THE COURT: Welcome.

11:32:24 13 MS. PLETSCHER: Good morning, your Honor.  
11:32:25 14 Amy Pletscher on behalf of defendants.

11:32:27 15 THE COURT: I'd like to thank Lily for being here  
11:32:30 16 as the court reporter helping us out.

11:32:32 17 So we are not going to be able to get an order  
11:32:38 18 finalized until next week, hopefully by next week, within  
11:32:42 19 two weeks for sure, but our goal is by the end of next  
11:32:45 20 week. But I wanted to let you all know that in the order,  
11:32:48 21 we are going to find that the plaintiff has standing --  
11:32:52 22 plaintiffs have standing. We're going to find that  
11:32:56 23 sovereign immunity does not -- we're going to deny the  
11:32:58 24 motion to dismiss with respect to sovereign immunity and  
11:33:00 25 that we will be granting a -- an injunction.

11:33:04 1 And so, I'll ask, Ms. Pletscher, my general take  
11:33:11 2 from the two hearings we had was that there will be no  
11:33:18 3 immediate impact on the state because of your contention  
11:33:22 4 that it's not till April 1st that these folks have to turn  
11:33:26 5 the lists in, right?

11:33:28 6 MS. PLETSCHER: As far as an immediate impact,  
11:33:31 7 your Honor, it is our position that that will impact the  
11:33:34 8 portions of the statute that influence SBOE, TSLAC, and  
11:33:40 9 TEA in their creation and implementation of their policies  
11:33:43 10 that are needed to move the statute forward. So I guess  
11:33:47 11 we would just --

11:33:48 12 THE COURT: Well then, you actually did a better  
11:33:51 13 job answering my question than I did asking it. I am  
11:33:54 14 enjoining any further action by the state. I wasn't sure  
11:33:59 15 -- my take was, there was no other action by the state but  
11:34:03 16 whatever action there is, I'm enjoining. There will be an  
11:34:07 17 order out within a week or two to that effect setting out  
11:34:11 18 the reasons why. And for Ms. Prather's clients' concerns  
11:34:16 19 under my order, they have no obligation to comply with the  
11:34:19 20 state law.

11:34:20 21 So that takes care -- I'll come back to you in  
11:34:23 22 just a second, Ms. Pletscher.

11:34:26 23 With regard to Ms. Prather, is there anything  
11:34:28 24 else you need me -- I'm sorry we can't get an order out.  
11:34:31 25 I think it's better to have an order that I assume the

11:34:34 1 state's going to want to take this up and, you know, we  
11:34:37 2 wanted it to be as fulsome as possible. That being said,  
11:34:41 3 is there anything else you feel I need to do today to give  
11:34:47 4 relief to your clients other than what I've done?

11:34:52 5 MS. PRATHER: Your Honor, I think that what  
11:34:53 6 you've done is sufficient if you felt like you needed to  
11:34:57 7 enter a one-line temporary restraining order just to  
11:35:00 8 ensure that something was in writing, you could do that,  
11:35:03 9 as well.

11:35:03 10 THE COURT: I don't know Ms. Pletscher well, but  
11:35:06 11 I get the impression that me articulating this at a  
11:35:09 12 hearing is sufficient for her and the state. And so, I  
11:35:14 13 tend not to feel like I need a belt and suspender -- I'm  
11:35:19 14 old-fashioned enough that I feel like if a judge orders  
11:35:22 15 something that that tends to be enough. And I'm going to  
11:35:26 16 give Ms. Pletscher the credit of not feeling like she  
11:35:29 17 could say, oh, but he didn't put it in writing.

11:35:34 18 So is there anything else -- I'm more concerned  
11:35:37 19 -- less with the procedural of how it's done than if I  
11:35:42 20 said -- if I granted all the injunctive relief you think  
11:35:46 21 you need to have temporarily until we get the order out.

11:35:51 22 MS. PRATHER: Yes, your Honor.

11:35:52 23 THE COURT: Now, from Ms. Pletscher, is there  
11:35:55 24 anything you need to ask me about the injun -- because  
11:35:59 25 there may be effects I'm not fully conversant with on the

11:36:03 1 state, if there's anything you want to articulate and have  
11:36:06 2 me clarify to the extent I can orally before we get you  
11:36:09 3 the order, I'm happy to take that up.

11:36:12 4 MS. PLETSCHER: Thank you, your Honor.

11:36:12 5 So just to clarify, you are enjoining the statute  
11:36:15 6 in its totality, correct, so not parsing out?

11:36:18 7 THE COURT: (Moving head up and down.)

11:36:19 8 MS. PLETSCHER: Okay. And then, also, your  
11:36:21 9 Honor --

11:36:21 10 THE COURT: Let me say on the record, I shook my  
11:36:24 11 head yes, which is a bad thing. Yes on the record.

11:36:28 12 MS. PLETSCHER: Thank you, your Honor.

11:36:28 13 THE COURT: Lily may have gotten that, but let me  
11:36:30 14 go ahead and the answer is yes on the record.

11:36:33 15 MS. PLETSCHER: And then, your Honor, just to

11:36:35 16 kind of follow up on that, we do intend to appeal any

11:36:39 17 granting of an injunction, and as such, we would, of

11:36:42 18 course, be seeking a stay of the injunction. If your

11:36:45 19 Honor's not so inclined to grant the stay of injunction

11:36:48 20 pending our appeal, would your Honor be amenable to

11:36:54 21 clearly articulating in your order that you are not

11:36:57 22 granting a stay of the injunction pending appeal?

11:37:00 23 THE COURT: So why don't we do it this way. I

11:37:03 24 think this is the first injunction hearing I've had so --

11:37:07 25 it's the first one I've granted at least. And so, to make

11:37:10 1 sure I'm doing it -- because I want to protect your  
11:37:13 2 rights, as well. If you want to go ahead since I am not  
11:37:18 3 in writing but order -- doing it now, if you want to go  
11:37:21 4 ahead and make the motion for me to stay it and I will --  
11:37:25 5 and I will deny it now, then we'll also include it in the  
11:37:28 6 order if that protects you on appeal.

11:37:30 7 MS. PLETSCHER: Okay. And there may be a written  
11:37:35 8 motion to stay forthcoming, as well, but I just wanted to  
11:37:38 9 mention that is on the record.

11:37:39 10 THE COURT: That's fine.

11:37:41 11 MS. PLETSCHER: Okay.

11:37:42 12 THE COURT: We're doing the best we -- you know.

11:37:44 13 MS. PLETSCHER: Sure.

11:37:44 14 THE COURT: We couldn't get an order out with my  
11:37:48 15 schedule. And obviously I think it protects the parties  
11:37:51 16 much better on the appeal for us to have articulated the  
11:37:55 17 reasons, you know, we're denying your motion. But let me  
11:37:59 18 just -- this is for both sides. I have no ego here.  
11:38:04 19 Whatever you all need to do to protect your clients'  
11:38:07 20 interests, you know, I don't get offended when -- I've had  
11:38:12 21 -- you know, you may have heard, I've had a mandamus or  
11:38:15 22 two. I'm sort of past the point of being, you know -- I'm  
11:38:19 23 okay with the fact that people have to protect their  
11:38:22 24 rights on appeal.

11:38:23 25 Whatever it is you each need to do, that's fine

11:38:27 1 with me. And if there's anything we can do procedurally  
11:38:30 2 to help one side or the other protect their rights, just  
11:38:33 3 let us know and that's my intent.

11:38:36 4 So is there anything else on behalf of the state  
11:38:40 5 you'd like to ask me to do or articulate?

11:38:43 6 MS. PLETSCHER: No. Thank you, your Honor.

11:38:45 7 THE COURT: Okay. Well, like I said, we intend  
11:38:48 8 to have this out, you know, if we can, by the end of next  
11:38:52 9 week. It will be very shortly after that, if not -- and  
11:38:58 10 then, you all can do whatever you want to with it.

11:39:01 11 So have a good -- I don't mean to say -- but go  
11:39:06 12 ahead and have a good weekend. It's a holiday weekend and  
11:39:09 13 then, you could take battling over this again when we get  
11:39:12 14 the order out. Take care.

11:39:13 15 MS. PLETSCHER: Thank you, your Honor.

11:39:14 16 MS. PRATHER: Thanks, your Honor.

17 (Proceedings concluded.)

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UNITED STATES DISTRICT COURT )

WESTERN DISTRICT OF TEXAS )

I, LILY I. REZNIK, Certified Realtime Reporter,  
Registered Merit Reporter, in my capacity as Official  
Court Reporter of the United States District Court,  
Western District of Texas, do certify that the foregoing  
is a correct transcript from the record of proceedings in  
the above-entitled matter.

I certify that the transcript fees and format comply  
with those prescribed by the Court and Judicial Conference  
of the United States.

WITNESS MY OFFICIAL HAND this the 1st day of September,  
2023.

*Lily Iva Reznik*

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